

App. No. 10/750,555

Reply to Office action of August 9, 2005

**REMARKS/ARGUMENTS****A. Summary of the Amendment**

This is a full and timely response to the non-final Office Action dated August 9, 2005. Reexamination and reconsideration are courteously requested. By way of the present amendment, claims 1 to 2, 8 to 11, 18 to 20, and 23 are amended. No claims are added or canceled. Thus, claims 1 to 24 remain pending for the Examiner's consideration, with claims 1, 11, and 23 being independent claims.

**B. Double Patenting**

Claims 1 to 2, 8 to 12, 18 to 20, and 23 to 24 are rejected under the judicially created doctrine of obviousness-type double patenting. In response, a terminal disclaimer is filed herewith disclaiming any patent term extending beyond that of U.S. Patent No. 6,838,619. Consequently, it is believed that this rejection is overcome.

**C. Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 1, 11, and 23 are rejected as being indefinite for including the term "adapted to" and/or the term "adjacent to." These rejections are respectfully traversed, although the present amendment replaces the term "adjacent to" with other structural language.

Regarding the term "adapted to," the M.P.E.P. clearly establishes that the term is well recognized as being a definite term that presents functional language describing the operational capabilities of a mechanical, electrical, or chemical component. See M.P.E.P. § 2173.05(g) and also M.P.E.P. § 2106 (part II-C) as examples citing this well-recognized language.

Regarding the term "adjacent to," M.P.E.P. § 2173.05(b) also clearly establishes that claims with relative terms are appropriate to avoid reliance on the doctrine of equivalents to broaden the claim scope beyond the literal terms, as long as it is understandable to a person of skill in the art what the relative term would reasonably encompass. There are literally thousands of patents that utilize the term "adjacent" in the claims to describe proximity between two objects or components. More importantly, in the present case it would be clear to a person

App. No. 10/750,555

Reply to Office action of August 9, 2005

of ordinary skill in the art, in view of the specification and drawings, that a housing enclosing a switch associated with a power circuit would have an element that is positioned adjacent to the power circuit. Consequently, the claims should be considered definite, and the rejections of claims 1, 11, and 23 should be withdrawn.

D. Conclusion

In view of Applicant's amendments and remarks, it is respectfully submitted that Examiner's objections and rejections have been overcome. Accordingly, Applicants respectfully submit that the application is now in condition for allowance, and such allowance is therefore earnestly requested. Should the Examiner have any questions or wish to further discuss this application, Applicants request that the Examiner contact the Applicants attorneys at the below-listed telephone number.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment on this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

INGRASSIA FISHER & LORENZ

Dated: Oct. 31, 2005

By: 

David K. Benson  
Reg. No. 42,314  
(480) 385-5060